HIGH COURT OF UTTARANCHAL AT NAINITAL

(Court's order whether the case is or not approved for reporting)

(Chapter VIII Rule 32(2)(b)

Description of the case

W.P. No. 682 of 2004 (S/S)

Arshad Ansari

Vs.

State of Uttaranchal and others.

Approved for reporting

~~Not approved for reporting~~

Date of decision 10.5.2005

Initial of Judge

IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

WRIT PETITION NO. 682 OF 2004(S/S)

Arshad Ansari, aged about 27 years, son of Mr. Abdul Samad Resident of Line No. 5 Azad Nagar, Haldwani, District Nainital.

.....Petitioner.

Versus

1. State of Uttaranchal, through Secretary Medical, Health and Family Welfare, State of Uttaranchal, Dehradun.
2. Mahanideshak Medical, Health and Family Welfare, Dehradun.
3. Pariyojna Nideshak/Rajay AIDS Niyantran Karyakram, Uttaranchal, Chander Nagar, Dehradun.
4. Upper Nideshak, Medical Health and Family Welfare, Kumaun Region, Nainital.
5. Chief Medical Officer, Nainital.
6. Chief Medical Superintendent, Soban Singh, Jeena Base Hospital, Haldwani, District Nainital.
7. Prabhari Adhikari VCTC, SobanSingh, Jeena Base Hospital, Haldwani, District Nainital.

.....Respondents.

Mr. I.S. Mehra, learned counsel for the petitioner.
Learned Standing Counsel.

Hon'ble Rajesh Tandon, J.

By the present writ petition, the petitioner has prayed for quashing the order dated 24th May, 2004 (Annexure NO.10 to the writ petition) passed by the Chief Medical Superintendent.

Briefly stated, the post of male counselor was advertised in the newspaper "Uttar Ujala" in the month of April, 2002 by the Chief Medical Superintendent, Soban Singh Jeena Base Hospital, Haldwani, District Nainital.

According to the said advertisement, the minimum qualification required for the post was graduation in Sociology or Psychology. Apart form the aforesaid qualification as will appear from the advertisement that the appointment was for a

period of three months, which can be extended for another nine months that will come to one year.

Learned counsel for the petitioner has filed the present writ petition challenging the order dated 24.05.2004 by which the services of the petitioner has been terminated on the ground that his tenure of service has come to an end on 29th May, 2004. been completed and further he is not eligible to do work on the said post as he does not hold master degree. The order shows as under:-

"}kjk&& iFkk ykftLV ,l0,l0t0 cl fpfdRlky;] gY}kuhA

vki fofnr gh g fd vkidh rukrkh i:"k dkmUlyj lfonk d in ij ,d o"k d fy;s foxr o"k fnukd 30-5-2003 dk dh xbA vkidh rukrh fnukd 29-5-2004 l lekIr dh tkrh gA ;fn vkid }kjk iuZ vkonu fd;k tkuk g rk fu/kkfjr U;ure vgrk ikLV xt,V fMxh] lkbfd;kVh ;k lk'ky od ;k g;eu MoyieUV gkuk vfuok;s g dj ldr gA vU;Fkk vkonu ekU; ugh gkxkA"

Liberty has been given to the petitioner to apply afresh in case, he fulfills the requisite qualification of the aforesaid post.

As will appear from the notification dated 12.01.2004, the qualification has been approved to the extent of post graduate in psychology- Social Work-Psychiatry and Human Development and that has been newly approved counselor's qualification. The same is quoted below:-

"Kindly adhere to the newly approved counselors qualifications, i.e. Post Graduate in Psychology, Social Work, Psychiatry and Human Development. In case of inability to find suitable candidates in your state, pleas contact NACO to heldp you facilitate the process. Additionally, there have been several requests of the counselors from various states that

their salaries have not been raised to Rs. 6,500/- though it has been approved by NACO. Kindly ensure that all the counselors in VCCTs are duly paid the salary of Rs. 6,500/- regularly."

By the present writ petition, the petitioner has made his submission that the amended qualification will not apply in the case of petitioner in as much as, he having been appointed with the qualification of graduation, the subsequent amendment of the qualification with regard to the post graduation will not apply in the case of the petitioner.

Learned standing counsel has vehemently urged that the initial appointment of the petitioner as per advertisement was for a period of three months, which can be extended to maximum period of 9 months. The said advertisement is quoted below:-

"2- ijke'kdnkrk i:"k && ,d in vuqcU/k vof/k rhu ekg tk fd lUrks"ktud dk;Z dju ij vxyk uk ekg rd c<kbZ tk ldrh gSA"

So far as the change of qualification is concerned, the same has been made applicable prospectively and has not been applied retrospectively and as such in any of the case, the petitioner is not affected as his period of appointment has already expired. Once the period mentioned in the advertisement has come to the end, the petitioner could not have nay grievance on account of change in the qualification as that will apply to the subsequent appointment.

Admittedly, the appointment letter was issued on 15th March, 2003 and the letter, which has been issued to the petitioner on 24.05.2004, the period of one year has already expired. The petitioner could not have any grievance against the said letter.

Therefore, the writ petition lacs merits and is dismissed.

Liberty is given to the petitioner to apply afresh as indicated in the order dated 24.05.2004 if he fulfills the requisite qualification.

(Rajesh Tandon, J.)

Dated: 10.05.2005

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